

THE WILL BUSTED.

The Jury in the Reilly Will Case
After Three Hours

RENDERED A VERDICT YESTERDAY.

Unparalleled Scenes in the Court
Room When Announced.

CHEERS FROM THOUSAND THROATS

Greet the Announcement of the Verdict, Accompanied With Cries of "Good!"—The Judge Reprimands the Unruly Spectators—How the Contestants Received the Verdict. The Instructions Given to the Jury. Story of Yesterday's Proceedings.

"We, the jury, find that this will is not the true will of Michael Reilly," were the words spoken by Clerk Walton yesterday afternoon at 4:55 o'clock, in Part I of the circuit court. Hardly had the clerk concluded when with a spontaneousness seldom seen the thousand spectators who had listened amidst a silence that was almost oppressive, broke without preparation or warning into a combined and lengthened cheer, such as was probably never heard in the home of justice, and is not often heard anywhere. Such an outburst took place when the great Lincoln reviewed the combined armies of the republic in Washington in 1865, but even that did not compare with the scene enacted in the court room yesterday afternoon.

When the cheering died away partially, cries of "That's good!" evinced the sentiment that animated probably 99 per cent of the great crowd that had patiently waited throughout the afternoon for the verdict. The cheer and the succeeding ones were heard more than a square away and almost like a flash the news became known all over town that the will had been broken. People received the news almost as though it were something in which they were personally concerned, and groups gathered on street corners, in offices and stores and talked about the verdict, everywhere with the same sentiment—that the right thing had been done.

INSTRUCTIONS DELIVERED.

The Judge Gives Instructions and the Jury Retires.

The circuit court, Judge John A. Campbell, presiding, before which the Michael Reilly was being tried, convened yesterday morning in Part I at 9:30 o'clock. The judge at that hour was not ready to communicate to the jury the instructions. It was nearly 12 o'clock when the judge appeared with the instructions. Judge Melvin read the instructions prepared by the proponents of the will and Mr. Hubbard followed and read those prepared by the contestants. The judge then gave the form of verdict to the foreman, and at 12:05 the jury retired to the jury room. At 12:15 p. m. they returned to the court room. Clerk Walton asked if they had agreed upon a verdict; the foreman, Mr. Noble, answered that they had not, but wanted to go to dinner. This request was granted and court was adjourned until 1:30 o'clock in the afternoon.

The instructions given the jury are as follows:

PROXONISTS' INSTRUCTIONS.

No. 1. The time to be looked to by the jury in determining the competency of the testator to make a will is the time when the will was executed. If, therefore, the jury believe from the evidence that Michael Reilly was competent to make a will at the time of the execution of the paper writing in evidence of June 25, 1891, it matters not what his mental condition may have been at any other time or times.

No. 2. It is not necessary that a person should possess the highest qualities of mind in order to make a will nor that he should have the same strength of mind which he may have formerly had. The mind may be in some degree debilitated, the memory may be enfeebled, the understanding may be weak, the character be eccentric, and he may even want capacity to transact many of the ordinary business affairs of life. It is sufficient, too, if he possess mind enough to understand the nature of the business in which he is engaged and to recollect the property he means to dispose of, the objects of his bounty and the manner in which he wishes to distribute it among them.

No. 3. In an issue of this character it is not necessary for the proponents to prove the mental capacity of the testator beyond all reasonable doubt. It is sufficient if it may be shown by a preponderance of evidence.

No. 4. In determining the question of mental capacity of a testator, the testimony of the attesting witnesses to the will is entitled to peculiar weight.

No. 5. Old age is not of itself sufficient evidence of incapacity to make a will.

No. 6. It requires less capacity to make a will than it does to make a deed.

No. 7. If the jury believe from the evidence that Michael Reilly at the time of executing of the paper writing in evidence of June 25, 1891, was of disposing mind and memory, and acted freely, the validity of the paper writing cannot be impeached even if the jury or others deem its provisions or any of them unreasonable, imprudent or unaccountable. Where the testator has the legal capacity to make a will he has the legal right to make an unequal, unjust or unreasonable one.

No. 8. Even if the jury believe from the evidence that Michael Reilly in executing the paper writing in evidence of June 25, 1891, was influenced by feelings of resentment or dislike toward his children, yet this will not serve to invalidate such instrument; if they further believe from the evidence that at the time of executing the same he was possessed of the requisite capacity to make a will and act freely; and this is so, although the jury may further believe from the evidence that such feelings were unreasonable or unjust, or that they originated in a mistaken apprehension of facts.

No. 9. If the jury believe from the evidence that Michael Reilly at the time of executing the paper writing June 25, 1891, was mentally capable of understanding the disposition which he was making of his property and acted freely it is immaterial that he gave one child but a nominal sum or that he failed to make equal provisions for his other children, or that he by such paper writing postponed the final distribution of his estate until after the death of the last survivor of his living children and grandchildren. If he had a disposing mind and memory he had a right to do as he pleased with his property.

No. 10. Although the jury should find that Michael Reilly incoherently wrote his name in making the signatures to the paper writing in evidence of June 25, 1891, yet this is not decisive evidence of the issue but is merely a fact or circumstance to be considered by the jury with the other evidence in the case in determining as to the mental capacity of said Michael Reilly at the time of execution of said paper.

No. 11. If the jury believe from the evidence that said Michael Reilly at the time of the execution of the will in question possessed enough mind to understand the nature of the business he was engaged in, to recollect the property he meant to dispose of, the objects of his bounty and the manner in which he wished to dispose of that property, and that in executing that will he acted freely then it cannot be impeached even though the jury find from the evidence that he was influenced in making it by perverse opinions and unreasonable prejudices concerning his children or some of them.

No. 12. Undue influence to overthrow a will must be proved by the contestants; it will not be inferred.

No. 13. Undue influence to avoid a will must be such as to overcome the free agency of the testator at the time the instrument was made.

No. 14. The burden of proving that the paper writing of June 25, 1891, purporting to be the will of Michael Reilly, was procured by the exercise of undue influence is upon the contestants. Unless, therefore, the jury believe from a preponderance of the evidence that such paper writing was procured to be made by the exercise of undue influence operating upon the mind of Michael Reilly at the time of its execution it is not to be set aside on the ground of such influence.

No. 15. Undue influence in the making of a will is not to be presumed but must be proven. More opportunity for the exercise of influence affords no presumption and creates no inference that undue influence in any given case was in fact exerted.

CONTESTANTS' INSTRUCTIONS.

No. 1. The burden of the proof is on the proponents of the paper writing in question to prove by a preponderance of evidence that at the time of the execution of the will decedent was of sound mind.

No. 2. The jury are instructed that while time to be looked to by the jury in determining the competency of the testator to make a will is the time when the will was executed; yet the jury are instructed that evidence of business transactions by Mr. Reilly both before and after the execution of the paper writing in question indicating his mental condition may be considered in the question of his capacity at the time the paper writing was executed.

No. 3. The court instructs the jury that the evidence of physicians who were with Mr. Reilly during the time it was charged he was of unsound mind is entitled to great weight.

No. 4. The jury are instructed that whether the paper writing in question is the will of the deceased or not is to be determined like any other question in view of the legal evidence in the case and no controlling effect is to be given to the testimony of subscribing witnesses.

No. 5. If the jury find from the evidence that the paper writing in question is unreasonable, unjust and unnatural, these are circumstances which may be considered by them in connection with the other evidence in the case on the subject of the mental capacity of Mr. Reilly at the time he made the paper writing.

No. 6. If the jury believe from the evidence that the testator, Mr. Reilly, had for a long time prior to the execution of the paper writing in question, a delusion which perverted his mind, causing him to repel and treat his children unreasonably, cruelly and unreasonably, and that his delusion became a monomania in respect to his children and that it operated upon and influenced his mind so as to induce him to make this paper writing, then the jury must find that said paper writing is not his true will.

No. 7. If the jury find from the evidence that the paper writing in question was the product of an insane delusion as to the character and conduct of the testator's children, which operated upon his mind at the time the paper writing was made, they must find for the contestants.

No. 8. If the jury find from the evidence that Michael Reilly at the time he signed the paper writing in question was laboring under a delusion of fact producing a monomania as to the conduct of his sons and daughter, and that this delusion led him to sign said paper writing, then it is not his will although the jury may be satisfied by the evidence that said Michael Reilly was perfectly conscious of the nature of the testamentary disposition of his estate and aware of its effect as to his children.

No. 9. If the jury find from the evidence that the mind of the testator, Michael Reilly, was under an insane delusion as to the character and deserts of his children, so as to cause him to repel them, and to treat them harshly, unreasonably and unjustly; and if they further find from the evidence that this insane delusion existed in the mind of the testator prior to the execution of said paper writing, then the burden of proof is upon the proponents to establish by a preponderance of evidence that said delusion did not operate and had no effect on the said Reilly at the time when he made said paper writing.

No. 10. If the jury find from the evidence that the mind of the testator was affected by an insane delusion which operated so as to cause him to repel his children and to treat them harshly, unreasonably and unjustly; and if they further find from the evidence that this insane delusion existed in the mind of the testator prior to the execution of said paper writing, then the burden of proof is upon the proponents to establish by a preponderance of evidence that said delusion did not operate and had no effect on the mind of Michael Reilly at the time said paper writing was made.

No. 11. The jury are instructed that while the burden of proof is upon the

contestants of proving that said paper writing in question was procured by the exercise of undue influence operating upon the mind of Michael Reilly at the time of the execution of said paper writing, yet the inquiry is not merely whether undue influence was exerted at the time of the execution of said paper writing, but whether undue influence had been acquired on the mind of said Reilly which operated upon him at the time of executing said paper in the disposition of his property.

No. 12. The jury are instructed that if they believe from the evidence that said John T. Sullivan was the priest or spiritual advisor of the said Michael Reilly, and that he had opportunity for the exercise of undue influence, and that he obtained a personal and substantial benefit under the paper writing in question to the exclusion of the heirs and natural objects of the bounty of said Michael Reilly, then it is for the jury to say from all the facts and circumstances of the case whether or not undue influence was exercised by said J. T. Sullivan on the mind of said Michael Reilly which operated upon and controlled his mind at the time of the execution of said paper writing.

At 1:30 o'clock the jury filed into the court room and took their accustomed places. At that hour Messrs. Russell, Hutchinson and Hubbard of counsel were present. Judge Campbell stood at a window and a crowd of perhaps three scores were seated expectantly in the court room. In a few minutes Judge Campbell said:

"Sheriff, take the jury to the jury room."

The jury half arose and remained in that expectant attitude, but the sheriff came not, and after a pause the judge remarked:

"I guess you know where to go. Proceed to the jury room."

And the jury filed out as they came in, alone and unguided.

The scene in the court room thereafter was about as it was in the morning. The audience slowly increased and at 2:30 p. m. a fair sized crowd sat on the benches. The whole aspect of affairs was a sleepy, drowsy one. When anyone opened the private door, however, there would be an instantaneous rousing up on the part of the spectators, attorneys and reporters. Guesses were hazarded as to how long the jury would remain out, and what the verdict would be.

One old fellow who possessed an account of county clerk remarked that he didn't see how the jury could hesitate after that man Russell's argument. Neighbors entered a vigorous dissent to this, and said if the jury wasn't made up of "oysters" they couldn't disregard the eloquence of Messrs. Hutchinson and Hubbard. That's the way it went all through the afternoon.

The scene in the court at 3 o'clock was very informal. The crowd on hand was larger than before. Mr. Hutchinson, of counsel for the contestants, became tired of waiting for a verdict and took his leave for Parkersburg, his home. The reporters unearthed solemn law books and sought in vain some convincing edifying. Clerk Walton suggested that a reporter hunt up a case regarding a well known restaurant's "succulent beefsteaks," while another amused himself hunting up typographical errors in a law book from the hands of the state printer.

Thus the afternoon wore itself out, and as it neared 5 o'clock opinions were expressed that there would be no verdict that evening.

VERDICT RECEIVED.

The Jury Breaks the Will—Remarkable Exhibition of Enthusiasm Follows the Announcement of the Verdict.

At 4:45 o'clock there was a rush to secure places in the court room by those who had been idly waiting for developments, in the hallway. This was caused by the foreman of the jury coming to the door and requesting the deputy sheriff to conduct them to the court room. As this meant that a verdict had been decided upon, the anxiety to secure seats is explained.

When the jury filed in the court room through the private entrance there were more people; in the apartment than has been the case at any time during this memorable trial. Amid a stillness that was of the pin-drop variety the jury took their seats. At that time, of the counsel, Messrs. Russell, Riley and Smith were present. All of the contestants and nearly all of their families were there as much interested spectators. There was a delay of about three minutes on account of the absence of the judge. Then followed another wait which lasted until Mr. Hubbard came hurriedly in.

Clerk Walton—Gentlemen of the jury, have you agreed upon a verdict?

"We have," answered the foreman, F. Z. Noble.

The clerk then stepped up to the foreman who handed him a bundle of papers, evidence and exhibits in the case. Along with these papers was a smaller piece on which was written the verdict. This the clerk slowly unfolded, and read in a slow, somewhat low but very distinct voice, as follows:

"We, the jury, find that this piece of writing bearing date, June 25, 1891, is not the true will of Michael Reilly."

While this verdict was being read the stillness that prevailed the court room was almost oppressive. When Clerk Walton got to that little word, "not," on which he laid some emphasis, an audible "oh" passed over the court room, and the last word had not been spoken when almost every man in that vast audience lost all control over his feelings and a cheer went up that was heard over a square away from the building. This was followed by another and still another in quick succession, accompanied with cries of approbation of what the jury had done.

Mr. Hubbard was disposed to take the matter coolly, but the jubilant heirs-at-law got hold of him and nearly yanked his hands off. James Reilly in a spasm of good feeling ran over to the jury box and began to shake hands with the jurymen. Mr. Russell and Attorney-General Riley sat still but their countenances expressed eloquently the disappointment they felt over the result. Neither Archbishop Kain nor Right Rev. Father Sullivan was present.

Before the excitement had nearly subsided, the sheriff tried to secure order, and the judge, in a stern voice, said:

"Gentlemen, I will be compelled to summon the police if there is a recurrence of this unseemly outburst. If there is any further manifestation I will have the court room cleared and instruct that the sheriff arrest you."

This had a very quieting effect, as every man present wanted to see the future proceedings.

Mr. Russell—I would like to have the jury polled, Your Honor. We are not done with this jury yet.

The jury was then polled, as was requested by Mr. Russell. Charles A. Burke was first called, and the following question was put:

"Is the verdict I have just read to the jury your verdict?"

"Yes, sir," answered Burke.

"One," called out Sheriff Franzheim. This was continued until the twelfth

man had answered, all in the affirmative.

"Is there any reason for further detaining the jury?" asked Mr. Hubbard. Judge Campbell—I saw counsel conferring together.

Mr. Russell—I desire now to make a motion for a new trial.

Mr. Hubbard—I would like to have the motion set down for an early day. There is every reason that this should be done.

Next Saturday was suggested by Judge Campbell. Mr. Hubbard said that day would suit him, but Mr. Russell said that he was not prepared to say at that time what date would be suitable. It was probable that he would want the transcript of the stenographer's notes of the evidence.

Mr. Hubbard—I think it would be better now to decide upon a day for the motion, and I would ask your honor to dispose of the idea that the stenographer's notes must be prepared. You might as well postpone indefinitely. The stenographer can be here when the arguments for a new trial take place, and show his notes as wanted. I object as strenuously as I can to waiting for the notes to be prepared. It will be better to decide on the date now so that I can advise Mr. Hutchinson, who I know has engagements ahead. When the motion comes up, if a postponement is necessary, it can be had. I ask your honor to fix the day now, and the earlier it is the better it will suit us.

Mr. Russell—We will be better able to fix upon a day in a day or two. Mr. Hutchinson can be notified just as well in a day or two as now. We only want part of the notes of the stenographer, not all of them. We can ascertain from the stenographer what he can do for us, and day after to-morrow we can say what we can do. I have no disposition to delay matters.

Judge Campbell—Let it be called up for day after to-morrow then.

Previous to this the jury had been dismissed for this term of court, and thus ended a most famous legal contest—for the present.

BELLARE.

All Sorts of Local News and Gossip from the Glass City.

Deputy Sheriff W. N. Darby was in the city Monday night looking after the fellow who hired the horse from Samuel Campbell at St. Clairsville to ride to his cousin's wedding, but who rode the horse to Bridgeport, where he traded the animal for another one, received some cash in the trade, then left both horses with the man while he looked around Bridgeport. They have very conclusive evidence that he is a young man from this city who recently figured in a forgery case that was compromised.

The engineers and firemen of the Cleveland & Pittsburgh railroad were instructed in the use of the air-brake system by Court Ewing and Frank Day in the yards here yesterday. The machinery was all set up in a passenger car, and the party was accompanied by S. D. Moragon, the general foreman of engineers on that road.

The jury in the case of Benton L. Douglas against Isaac Hatcher, for libel, was only out an hour when they returned a verdict for the defendant. The costs in the case, not including attorney's fees, amount to over \$1,500.

John H. Hall, of St. Clairsville, was in this city yesterday, called here by the dangerous illness of his sister, Mrs. H. C. Justice, of Barnesville, who came here to nurse her daughter, Mrs. William Sheriff, through a recent illness.

Alex. DuBois is away on a trip with the Lumber Dealers' Association of Ohio, Indiana and Western Pennsylvania. They start to-day on a trip through Kentucky and West Virginia.

George Smith, who was prosecuted for stealing from Fred. Neizer, was left off with a fine by Squire Cooper, and Neizer withdrew the complaint against Miller.

County Treasurer Frank Archer was elected one of the directors of the Novelty Stamping Co. in place of Thos. Cochran.

The stockholders of the Bellare Nail Works hold their annual meeting next Saturday.

Dr. George L. Anderson, formerly of this city, is now in Oklahoma.

W. J. Morrison is in Cleveland on business.

\$100 Reward, \$100.

The reader of this paper will be pleased to learn that there is at least one dreaded disease that science has been able to cure in all its stages, and that is catarrh. Hall's Catarrh Cure is the only positive cure known to the medical fraternity. Catarrh being a constitutional disease, requires a constitutional treatment. Hall's Catarrh Cure is taken internally, acting directly on the blood and mucous surfaces of the system, thereby destroying the foundation of the disease, and giving the patient strength by building up the constitution and assisting nature in doing its work. The proprietors have so much faith in its curative powers, that they offer One Hundred Dollars for any case that it fails to cure. Send for list of testimonials.

Address, F. J. CHENEY & Co., Toledo, O. Sold by druggists, 75 cents.

FOR DYSPEPSIA.

Indigestion, and Stomach disorders, take HENRY'S HON. MYSTIC.

All dealers keep it, 50¢ per bottle. Genuine has trade-mark and crossed red lines on wrapper.

READ THE INTELLIGENCER'S Special Art Portfolio offer on page three to-day.

To Restore

hair which

has become thin,

and keep the scalp

clean and healthy, use

AYER'S

HAIR VIGOR

It prevents the hair

from falling out

or turning gray.

The best

Dressing

DRUGGISTS.

STOP THAT COUGH.

USE

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HONEY-TOLU & TAR

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25 AND 50 CENT BOTTLES.

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THE GREAT GERMAN AND ENGLISH DOCTORS

Free for Three Days Only.

SATURDAY, SUNDAY AND MONDAY,

January 27, 28 and 29.

All who visit these Eminent Physicians on January 27, 28 or 29,

will receive all Medical Services and Surgical treatment

*FREE UNTIL CURED!

The object of this FREE SERVICE is to become quickly acquainted with the sick; also to demonstrate the superior excellence of their methods of treating all diseases of a chronic or long-standing nature. The doctors feel assured that the grateful endorsements of the many they relieve and cure will give them during their future visits an extended practice that will amply repay for this great outlay of time and money. Although they treat all diseases of a chronic, long standing, obscure, or difficult nature and cure many so-called incurable diseases, they wish it thoroughly understood that if after a thorough examination your case is found to be incurable we frankly tell you so and reserve the right to reject all such cases.

ALL DISEASES AND DEFORMITIES TREATED!

CATARH CURED. Consumption in the incipient stage; Bronchitis; Asthma; Rheumatism; all diseases of the nose, throat, lungs, stomach, liver and kidneys; scrofula. Sores, Ulcers and all chronic blood troubles; Eczema, Psoriasis, Pimples, Itchings, and all skin troubles treated and cured.

NERVOUS DISEASES—Epilepsy positively and permanently cured. Nervous debility from any cause, Hysteria, Neurasthenia, Chorea, St. Vitus Dance, etc., positively cured, by the London Specific Treatment.

DISEASES OF WOMEN—We examine ladies without exposure, and treat all diseases peculiar to their sex without the use of rings, pessaries, etc., by a new and painless method.

YOUNG MEN—Middle-aged Men, Old Men, Weak, Disordered, Dependent Men. Men suffering from premature decay, exhausted and enfeebled powers, any or all diseases arising from habits of youth, early vice, indiscretions or excesses, etc., diseases causing nervous, draining, weak or failing memory, itches, pimples, impure blood, falling of hair, etc., should visit them at once. By their Anglo-German methods and remedies they guarantee such sufferers immediate relief and a perfect cure.

CANCERS and malignant tumors and growths, all enlargements and glandular swellings removed and cured without the use of a knife. No pain. No matter what disease you are suffering from, or how long standing; no matter how many physicians have failed to cure you, call on us. It will cost you nothing, and you may profit by it.

Office at Sherman House, Ladies' Entrance. Office Hours—Saturday, 9 a. m. to 5 p. m.; Sunday, 10 a. m. to 4 p. m.; Monday, 9 a. m. to 5 p. m. Permanent address: Boston, Mass. The Doctors will make twelve return visits to Bridgeport, Ohio, of which due notice will be given in this paper.

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